

COMMITTEE ON PLANNING & DEVELOPMENT

(Standing Committee of Berkeley County Council)

Chairman: Mrs. Cathy S. Davis, Council Member District No. 4

A meeting of the **COMMITTEE ON PLANNING & DEVELOPMENT**, Standing Committee of Berkeley County Council, was held on **Monday December 14, 2009**, in the Assembly Room of the Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina, at 6:23 p.m.

PRESENT: Chairman Cathy S. Davis, Council District No. 4 Committee Member Phillip Farley, Council District No. 1; Committee Member Timothy J. Callanan, Council District No. 2; Committee Member Robert O. Call, Jr., Council District No. 3; Committee Member Dennis L. Fish, Council District No. 5; Committee Member Jack Schurlknight, Council District No. 6; Committee Member Caldwell Pinckney, Jr., Council District No. 7; Committee Member Steve C. Davis, Council District No. 8; County Supervisor Daniel W. Davis, ex officio; Ms. Nicole Ewing, County Attorney; and Ms. Barbara B. Austin, Clerk of County Council.

In accordance with the Freedom of Information Act, the electronic and print media were duly notified.

Chairman C. Davis called the meeting to order and requested approval of the minutes from the Committee on Planning and Development meetings held on June 8, 2009 and June 22, 2009.

It was moved by Committee Member Farley and seconded by Committee Member Schurlknight to **approve** the minutes as presented. The motion passed by unanimous voice vote of the Committee.

A. Eric L. Greenway, AICP, Planning and Zoning Administrator, Re: Presentation for dilapidated structures, unclean lots and land, and code enforcement.

Mr. Greenway stated, "Many of you are aware that recently we've had some issues in Berkeley County regarding dealing with dilapidated properties in the county. We wanted to come before you this evening and do a presentation about some proposed ideas that we have for dealing with those issues and also beefing up the Code Enforcement Program. My three Code Enforcement officers are here in the room this evening with me for a matter of observation. I don't know where they are sitting, so I won't call them out for you, but just wanted you to be careful about what you said about them."

Mr. Greenway continued, "Basically, we are having three problems in Berkeley County right now and a lot of these problems overlap. We have overgrown lots and land. We have general debris problems and we have dilapidated structure problems. We deal a lot with these issues and many of these issues that we are talking about tonight get cleaned up within the time frame and we do have much trouble in dealing with a significant number of these cases.

However, there are some cases and it is relatively a minor number of the overall cases that we deal with on a yearly basis. They can become significant if you live adjacent to these properties and there is nothing we can do about them. So that is what we want to talk to you about this evening. The first one we have is the overgrown lots of land situation. Anytime you have neighbors like the properties in the picture there, you are likely going to have more rodents and snakes and mosquito breeding areas and it can create a fire hazard and it can devalue the adjacent property where you may be living. We have about four of these unresolved long term cases and some of these cases go back as much as five years. It is very difficult for us to deal with those and I will talk to you a little bit about those issues in a moment. These are a couple more properties here, the one on the left is in Caromi Village. The one on the right is in Highland Acres. There as you can see, a very unsuitable properties if you live in those neighborhoods. The second category is general debris category. Again, you have the rodent and snake breeding area problem. You have the adjacent property value. You have the fire hazard and then you have the safety issues for children that may get off a particular piece of property and travel onto these properties just to see what's under that stuff and they get hurt and things like that. In this particular case, we have five long term cases. We have one absentee property owner here which is an issue I will talk to you about in a moment. And some of these cases are as old as three years. The pictures over there, the one to the very right of the screen, that's a pile of debris that is located in Caromi Village that we have been tracking for some time and trying to get cleaned up. And we just do not have the tools necessary to do that at this particular point. Again, general debris. The picture on the left is trash beside someone's house. The picture on the right, as you can see there. The picture on the right in the upper hand is a repeat offender and I've got an option that we are going to implement in our Code Enforcement Office that I am going to talk about in a few moments, regarding those situations. This is our major issue right here, abandoned structures in the county. I'm sure all of you in your travel in the county you see a lot of structures that have got partially constructed and people either ran out of money or they just quit or they just put the structure there and then walked off and left it for some reason. Again, these are issues because of the devalue of the adjacent property, no one wants to have a unfinished home next to their property. Again, it can be a safety issue and it possible leads to additional crime. The picture in the upper right hand corner, the Sheriff's Office had to run a gang of teenagers out of that structure recently because they had gone in there and set up shop and hanging out in that structure. We have 21 of these cases and eight of these property owners are absentee. By absentee, I mean people that own the property that live outside of Berkeley County. Some of these cases are as old as five years. The picture on the bottom is a situation that many of you have seen from the interstate that is almost behind the rest area. That is a structure that got pulled on a piece of property behind the Tall Pines Subdivision out on Treeland. We have been trying for several months to get rid of that property. Tall Pines is calling us. We've issued a citation to the property owner. It has gone before the Magistrate Court. The Magistrate has issued a bench warrant for that individual's arrest, but we cannot locate him. While all of this is going on, the structure continues to sit there and the neighborhood keeps complaining, asking us to do something about it. Again, some more general pictures. The picture in the lower right hand corner is a townhome that was under construction in the Summer Wood development, out near Summerville. When Portrait Homes collapsed and went out of business, they just walked off of this neighborhood and left several of these buildings in this or worse shape in that condition right there. The issues with these situations basically are

several. Landowners do not respond to the Notice of Violations because our Code Officers have no leverage. The people know that we cannot do anything other than issue a ticket to them and take care of the issue that way. And if they refuse or we can't deliver service, which is item number two. If we can't find them to hand them the ticket, there is nothing we can do about it. And that is another issue. And if they are absentee landowner, then we have to physically get another service agency in that jurisdiction to work with us to deliver that citation to those individual property owners that may own property in another county. Again, the bench warrant issue. It may get issued, but it may not be acted upon in a reasonable time period or it may not acted on at all. Even if we do issue a citation that carries with it a lot of fine, about \$1,087 per fine. But that doesn't guarantee cleanup either. If somebody wants to pay the fine and leave the property in the condition, then they can pay the fine and then we have to reopen the case and start all over again. So, what are the solutions? With repeat offenders, we have begun the process of basically, when someone cleans up their violation, that we are going to send them a letter for thanking them for complying with the Berkeley County regulations and putting them on notice right then, that if we receive another violation complaint of that type on that particular piece of property in the future, we are just going to proceed immediately to a fine. If we've told you that you've got trash on your property and that's a violation or you haven't kept up your lot and that is a violation and you clean it up the first time then we shouldn't go through the process over and over and over of giving someone 10 days to comply with the code each time we have the same violation on the property. So we are going to go immediately to a ticket in the future. Second item is the one I wanted to talk to you about this evening that I am seeking consensus on before we develop this ordinance. And this is to re-enact an ordinance that permits the county to clean up these properties and recoup the cost through the property tax bill. We had such an ordinance in 1992 but that later got repealed. The language in the 94 ordinance which was problematic is that last line in red, "The lien should be placed and collected on the property through an appropriate judicial process". That was time consuming and very difficult to pull off. We are proposing that if we do this ordinance that we follow the state law which basically says that the expense for the collection and cleanup and the removal of the structure will be the same as in the same manner as county taxes. So it will be collected as part of the property tax bill and not through a judicial process. So it would become a part of a special assessment on the annual tax bill if we have to go in through the year and clean up one of these properties. The potential cost and considerations that you are looking at here. If you have to go in and clean up one of those overgrown lots, you are looking at about \$80/hour. If you are looking at structure removal, you are going to be at about \$500 - \$750 per structure. And if you have just general debris removal, that's about \$575 a day. These figures came from a variety of sources. We had our county staff get estimates for county staff doing the work and we also had private contractors to give us prices for doing this work as well. We as a staff recommend that we use outside contractors because there might be some issues that come along such as asbestos issues and things like that, that the county may not be ideally suited to deal with and we would have private contractors that would be more capable of dealing with that. And also, we will need, of course, if we start this program, we will need some type of funding for the initial cleanups to begin. Our proposal, if we do this, is for this initial funding source to just be taken out of contingency until we can get an idea of how much this is going to cost on an annual basis."

Committee Member Schurlknight inquired, "What steps will we be taking preceding getting to this point?"

Mr. Greenway replied, "I think it is in the state law right there. I think it says that we may remove that and we have to post the property on the main entrance to the dwelling and I think we even have to put it in the newspaper as well."

Committee Member Schurlknight stated, "That's prior to cleaning?"

Mr. Greenway replied, "Yes, prior to cleaning it up. There are a lot of steps. It's not that we are going to adopt this ordinance and the next day I'm going to go out and start tearing down structures. There is a fairly significant process and time frames that have to be satisfied before this type of cleanup could commence."

Committee Member Schurlknight stated, "So the property owner will have ample enough time to do it himself before we get to the point where we're going to do and charge him to do it?"

Mr. Greenway replied, "That is correct. And again, this is going to be one of those cases. If we send a notice to a property owner and the property owner calls us and says 'Look, I'm willing to work with the County and I'm willing to take care of this, but I need some extra time, will you work with me?' Our interest is not to penalize property owners for letting their property get to this point, if they are willing to work with us and clean it up and take care of it. So, we will do that. I want compliance with the code. I don't want to be punitive necessarily so if someone needs additional time and it takes them six months to clean that property up or whatever and they are working on it and making progress then we are going to exercise a little latitude with that. This will be in the cases when people just simply refuse to work with us, ignore us or we can't find them."

Committee Member Schurlknight stated, "I know exactly what you are saying. There's two or three of these same situations in my district down in Bonneau Beach that we are working on, trying to get something done but we have just kinda hit a stone wall with that. Definitely there's some fire hazards out there and safety issues for those kids."

Mr. Greenway stated, "Apparently we had a similar issue like this in the mid 90's here that Mr. Call might have worked on. This is a piece of property that was in Forest Lawn. You can see the condition that the property was in. The County went in and cleaned up the property. And today, this is what that property looks like in Berkeley County. So there are some benefits to doing this type of thing. More than the implementation of the ordinance and tearing down the structures, just having the ability to put that in a notice to a property owner that 'Hey, if you don't clean this property up, this is what could happen and we are going to get the money back through the property tax notice'. Just having that leverage from a Code Enforcement standpoint is going to go a long way toward cleaning up a lot of these properties."

Committee Member Callanan stated, "With regards to the steps that we have to take preceding us taking action on this, do we also recoup those fees as well?"

Mr. Greenway replied, "It is my understanding that the total expense of us taking this action could be recouped through the property tax as a special assessment on the property tax bill. So yes, the legal cost could be recouped as well."

Committee Member Callanan stated, "I'm assuming that we wouldn't be the first county to act in this particular way."

Mr. Greenway responded, "No, many counties have it."

Committee Member Farley inquired, "Would you put an itemized list on the cost that they charge at the landfill and everything and it would be itemized onto the tax bill as a total? Hours of labor, everything?"

Mr. Greenway responded, "I hadn't really thought through it that degree. Since we are recommending that private contractors do this work, we would just basically, I think all we would need would be the invoice from the private contractor for the amount to do the work and however our requirements internally would work as far as that billing procedure, then that would be the bill that we would provide to individuals."

Committee Member Farley inquired, "But would they have to give us an estimate and we would...."

Mr. Greenway replied, "That's correct. It would have to follow the appropriate procurement and contract procedures."

Committee Member Schurlknight stated, "Eric, just one more thing. Just talking about the vacant lots. What would be the criteria that we would use to say that those lots need to be cleaned up? I'm getting to think about the extreme now that is out there. The grass needs to be mowed."

Mr. Greenway replied, "That is a good question. Because what if the lot has never been developed and it is just a vacant lot in a subdivision and there has not been a house built upon it yet. We've had that debate in our office as well as to what do we do with those. Basically, we've taken the position in most cases, if those lots are undeveloped in a subdivision, then they can remain in their state that they were in at development. Now, if somebody goes in there and starts storing, like we have one situation with a subdivision where we have some vacant undeveloped lots in a subdivision but contractors have gone in and dumped concrete and it basically using this to dump their debris and stuff on, we are saying that those lots need to be cleaned up."

Committee Member Schurlknight stated, "Basically, what you are saying is on the natural vegetation on those lots in the natural state, then that is fine. And I agree with that."

Mr. Greenway stated, "If the yard was planted and it was vacant. If the yard was planted and somebody has been mowing it for six months and then just all of a sudden just quit mowing it, then we would say that that lot needs to be kept clean."

Committee Member Call stated, "Mr. Greenway, I have a couple of questions. I want to congratulate you too on the work you have done and the Legal Department. I was on Council and worked really hard on this ordinance and I understand the reason the teeth were taken out of it was because it was going to take the County a long time in some cases to get their money. Probably until the property changed hands. So, I am excited about this new way you have of being reimbursed for the clean up. This particular house that you are showing now, the preceding slide, was both the same house. A tree fell through it during Hugo. People got their insurance check and just walked off. No intentions to ever clean it up. So the County did do that and I'm not sure how the lot changed hands, whether the County had it or what, but, during that time we did tear down three houses in my district. And it was cumbersome to collect because we had to file suit in Magistrates' Court in the county where the defendant lived, the property owner. I actually went to the trial with the County Attorney in Dorchester County. It was kinda weird situation to have Berkeley County over there. So somebody in Dorchester County, what we got though, we got judgment and a lien which is pretty worthless until some money changes hands. Josh told me about this and I think Nicole too. And it's an exciting thing. As long as we could be without our money until the next tax sale."

Mr. Greenway replied, "We could possibly be without it longer but, if the folks did not pay the tax, that special assessment as part of their property tax bill, it is my understanding that that property could be auctioned through the delinquent tax sale."

Committee Member Call stated, "This puts the County in line ahead of all mortgages, all kind of liens that anybody has against the property, the taxes get paid first. This will be collected in the same manner. It puts us at the front of the line actually."

Mr. Greenway replied, "That's correct. There is some debate about how often this particular provision would be used all the way. I'm not sure that we are going to use it that often. Again, just having the ability to say if you don't clean this up, we are going to do this and it's going to be collected this way. I think it will give us a lot more leverage than we currently have. But, if we do have to go that route, then we can recoup our costs through the property tax process instead of having to go through a legal process that is cumbersome."

Committee Member Call stated, "I can tell you there are a lot of people in this subdivision that wants something done. And something needs to be done. I will just ask you this question. Probably shouldn't be taking the time to ask you this question, but I had one of them over there tell me that you could put all the junk you wanted to in your carport to be seen from the street and it don't matter if it's in your carport."

Mr. Greenway replied, "Again, we had that example of the one there that kinda fit that category, right there on the upper right hand screen. We've cited that person numerous times so

I don't think that is entirely true. Anytime a situation occurs for your constituents and they feel they are not getting satisfaction through our code enforcement process, feel free to tell them to call me or Ronald Brewer, who oversees that division for the County and we will check into it and try to see if we can get some action on the behalf of the citizens."

Committee Member Call stated, "I must tell you that the people that do call have been very happy with your department. You have a system over there to log these complaints into. They don't go into the trash can and you can tell a citizen almost to the hour when a Code Enforcement Officer is going to be out there to take a look. I'm kinda excited about this. I'd like to see it work and it will help people in my district. I don't know how many of my photographs that you have. I had about 40, I think. I don't know if I gave you all of them or not. But, some are pretty sad."

Mr. Greenway stated, "We're investigating those issues on a case by case basis and doing what we can with each one of them."

Committee Member Call stated, "One of them even had a sign in the picture window interviewing for Subway employees. There is all kind of stuff going on out there and unless somebody calls it in and I ask the people if they don't have a digital camera, I'll come and take a picture of it because Code Enforcement can do so much more if they can put that digital photograph in that computer file. It seems to have worked very well in this subdivision. I appreciate your efforts out there. There was some construction that didn't have a permit while you are out there as well."

Committee Member Fish stated, "I need to commend you as well. We got three of those in my area that we have been fighting a long, long time. You need the teeth to take care of them. My question is, 'Are you going to bring or is Legal going to bring to us a resolution to start the process and we can expect that soon?'"

(Response was inaudible.)

Committee Member Callanan inquired, "A couple of more questions. One is, so we are actually voting on something tonight?"

Mr. Greenway replied, "The purpose of this presentation tonight was just before we spend a lot of time doing the ordinance, we wanted to try to get a consensus from you all because there are two issues here. Number one, do we want to do the ordinance? Number two, if we do the ordinance, do we want to fund that through the contingency fund for the foreseeable future until we have a budget item that we can put in there in a specific amount to budget each year to take care of this issue?"

Committee Member Callanan stated, "That was my next question. I guess when the ordinances come up we will have an idea possibly on what the annual budget will be. My guess is if this is done through property sales then you are talking about a two year lag possibly."

Mr. Greenway replied, "That is correct."

Committee Member Callanan inquired, "On this too, this is the way to mitigate the problem when we find out that there are problems, debris or whatever. But does the ordinance that defined the actual offense, do those need to be updated at this time? Possibly, give them a little more teeth so that we can enforce this. Or we can do it all at once."

Mr. Greenway replied, "That's a very good question. One I hadn't thought of but yeah, we probably do need to as we are doing this ordinance, make sure that all of the things that we deal with on a daily basis are updated to the degree necessary to make this an effective program. Very good suggestion."

Committee Member Call stated, "Two little things and I will finish ok? One, the Building Inspector, Mr. Brewer. I'm sure that he or numerous people on his staff have stood the examination for Zoning and Property Standards and they know a violation of this when they see it. I took the same exam. It's a little bit tough. Secondly, Madam Chairman, I'd move that we allow Mr. Greenway to proceed onto whatever he sees as the next step in this process for us to consider."

Chairman C. Davis stated, "Before I call for the vote, I too would like to thank Mr. Greenway for his work on this and I appreciate you bringing it to us and all of the work that you have done in preparing this. I know that it's going to be a good thing."

It was moved by Committee Member Call and seconded by Committee Member Farley to **approve** the creation of an ordinance to address dilapidated structures, unclean lots/land and code enforcement. The motion passed by unanimous voice vote of the Committee.

It was moved by Committee Member Call and seconded by Committee Member Farley to **adjourn** the Committee on Planning and Development meeting. The motion passed by unanimous voice vote of the Committee.

The meeting ended at 6:49 pm.

March 8, 2010

Date Approved